

AMENDED IN ASSEMBLY JUNE 23, 2009

AMENDED IN ASSEMBLY JUNE 11, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 226

Introduced by Senator Alquist

February 23, 2009

An act to amend Section 786 of the Penal Code, relating to identity theft.

LEGISLATIVE COUNSEL'S DIGEST

SB 226, as amended, Alquist. Identity theft: jurisdiction.

Existing law provides that when multiple offenses occur in multiple jurisdictions and all of the offenses involve the same defendant or defendants and the unauthorized use of the personal identifying information of one person, then jurisdiction for all offenses is proper in any one of the counties where an offense occurred.

This bill would provide, in addition, that when multiple offenses occur in multiple jurisdictions and all of the offenses involve the same defendant or defendants and *either the same personal identifying information of one person or* the same scheme or substantially similar activity, then jurisdiction for all offenses, including associated offenses connected together in their commission to an underlying identity theft offense, is proper in any one of the counties where one of the offenses occurred.

Existing law requires a court to consider specified facts when determining if all counts in a complaint alleging multiple offenses of unauthorized use of personal identifying information occurring in multiple counties should be joined in one county for prosecution.

This bill would, in addition, require the court to consider whether or not the offenses involved substantially similar activity or the same scheme when making that determination.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 786 of the Penal Code is amended to
2 read:

3 786. (a) When property taken in one jurisdictional territory
4 by burglary, carjacking, robbery, theft, or embezzlement has been
5 brought into another, or when property is received in one
6 jurisdictional territory with the knowledge that it has been stolen
7 or embezzled and the property was stolen or embezzled in another
8 jurisdictional territory, the jurisdiction of the offense is in any
9 competent court within either jurisdictional territory, or any
10 contiguous jurisdictional territory if the arrest is made within the
11 contiguous territory, the prosecution secures on the record the
12 defendant's knowing, voluntary, and intelligent waiver of the right
13 of vicinage, and the defendant is charged with one or more property
14 crimes in the arresting territory.

15 (b) (1) The jurisdiction of a criminal action for unauthorized
16 use, retention, or transfer of personal identifying information, as
17 defined in subdivision (b) of Section 530.55, shall also include the
18 county where the theft of the personal identifying information
19 occurred, the county in which the victim resided at the time the
20 offense was committed, or the county where the information was
21 used for an illegal purpose. If multiple offenses of unauthorized
22 use of personal identifying information, either all involving the
23 same defendant or defendants and the same personal identifying
24 information belonging to the one person, or all involving the same
25 defendant or defendants and the same scheme or substantially
26 similar activity, occur in multiple jurisdictions, ~~the then any of~~
27 ~~those jurisdictions is a proper jurisdiction for all of those offenses,~~
28 ~~and for the offenses. Jurisdiction also extends to all associated~~
29 ~~offenses connected together in their commission with an to the~~
30 ~~underlying identify theft offense, is in any jurisdiction where at~~
31 ~~least one of the offenses occurred. or identity theft offenses.~~

1 (2) When charges alleging multiple offenses of unauthorized
2 use of personal identifying information occurring in multiple
3 territorial jurisdictions are filed in one county pursuant to this
4 section, the court shall hold a hearing to consider whether the
5 matter should proceed in the county of filing, or whether one or
6 more counts should be severed. The district attorney filing the
7 complaint shall present evidence to the court that the district
8 attorney in each county where any of the charges could have been
9 filed has agreed that the matter should proceed in the county of
10 filing. In determining whether all counts in the complaint should
11 be joined in one county for prosecution, the court shall consider
12 the location and complexity of the likely evidence, where the
13 majority of the offenses occurred, whether or not the offenses
14 involved substantially similar activity or the same scheme, the
15 rights of the defendant and the people, and the convenience of, or
16 hardship to, the victim and witnesses.

17 (3) When an action for unauthorized use, retention, or transfer
18 of personal identifying information is filed in the county in which
19 the victim resided at the time the offense was committed, and no
20 other basis for the jurisdiction applies, the court, upon its own
21 motion or the motion of the defendant, shall hold a hearing to
22 determine whether the county of the victim's residence is the proper
23 venue for trial of the case. In ruling on the matter, the court shall
24 consider the rights of the parties, the access of the parties to
25 evidence, the convenience to witnesses, and the interests of justice.

26 (c) This section shall not be interpreted to alter victims' rights
27 under Section 530.6.